

Dianne B. Elderkin (admitted *pro hac vice*)  
delderkin@akingump.com  
Barbara L. Mullin (admitted *pro hac vice*)  
bmullin@akingump.com  
Steven D. Maslowski (admitted *pro hac vice*)  
smaslowski@akingump.com  
Angela Verrecchio (admitted *pro hac vice*)  
averrecchio@akingump.com  
Matthew A. Pearson (admitted *pro hac vice*)  
mpearson@akingump.com  
Rubén H. Muñoz (admitted *pro hac vice*)  
rmunoz@akingump.com  
**AKIN GUMP STRAUSS HAUER & FELD LLP**  
Two Commerce Square, Suite 4100  
2001 Market Street  
Philadelphia, Pennsylvania 19103-7013  
Telephone: (215) 965-1200  
Facsimile: (215) 965-1210

Attorneys for Plaintiff and Counter-Defendant CENTOCOR ORTHO BIOTECH, INC. and Third-Party Defendants GLOBAL PHARMACEUTICAL SUPPLY GROUP, LLC, CENTOCOR BIOLOGICS, LLC and JOM PHARMACEUTICAL SERVICES, INC.

## CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

CENTOCOR ORTHO BIOTECH,  
INC.,

Plaintiff,

V.

GENENTECH, INC. and CITY OF  
HOPE,

Defendants.

Case No. CV 08-03573 MRP (CTx)

**PLAINTIFF'S *EX PARTE*  
APPLICATION FOR LEAVE TO  
TAKE DEPOSITION OF WITNESS  
SHARON CRANE AFTER THE  
DISCOVERY CUT-OFF DATE**

Date: TBA  
Time: TBA  
Place: Hon. Mariana Pfaezler,  
Courtroom 12

AND RELATED COUNTER AND  
THIRD-PARTY ACTIONS.

1 **I. INTRODUCTION**

2 Pursuant to Local Rule 7-19, Plaintiff Centocor Ortho Biotech, Inc.  
3 (“Centocor”) hereby applies *ex parte* to the Court for leave to take the deposition of  
4 third-party witness Sharon Crane on May 6, 2010, after the Discovery Cut-Off date  
5 of April 30, 2010.

6 This *ex parte* application is being filed because fact discovery in this case  
7 closes on April 30, 2010 and Centocor is unable to bring a noticed motion prior to the  
8 Discovery cut-off. On April 30, 2010, Keith Fraser, counsel for Centocor, contacted  
9 Matthew Shiels and David Gindler, counsel for Defendants Genentech and City of  
10 Hope respectively, and advised them of the substance of this *ex parte* application and  
11 of plaintiff’s intent to file it today. Both counsel stated Defendants would not oppose  
12 Plaintiff’s *ex parte* application. The contact information for Defendants’ counsel is  
13 as follows:

14 David I Gindler  
15 Joseph M Lipner  
16 Irell and Manella  
17 1800 Avenue of the Stars  
18 Suite 900  
19 Los Angeles, CA 90067-4276  
20 Tel: 310-277-1010  
21 Email: [jlipner@irell.com](mailto:jlipner@irell.com); [dgindler@irell.com](mailto:dgindler@irell.com)

22 Daralyn J. Durie  
23 Ryan Kent  
24 Durie Tangri, LLP  
25 217 Leidesdorff Street  
26 San Francisco, CA 94111  
27 Tel: 415-362-6666  
28 Email: [ddurie@durietangri.com](mailto:ddurie@durietangri.com), [rkent@durietangri.com](mailto:rkent@durietangri.com)

Mark A. Pals  
Marcus E Sernel  
Matthew Shiels  
Kirkland and Ellis LLP  
300 North LaSalle Street  
Chicago, IL 60654  
Tel: 312-861-2000  
Email: [mpals@kirkland.com](mailto:mpals@kirkland.com), [msernel@kirkland.com](mailto:msernel@kirkland.com),  
[mshiels@kirkland.com](mailto:mshiels@kirkland.com)

1 **II. ARGUMENT**

2 Sharon Crane was identified in Defendants' Initial Disclosure as a person  
3 having knowledge relevant to the subject of this litigation, and Defendants' counsel  
4 indicated that they should be contacted before Centocor contacted any witness  
5 directly. *See* Exhibit A. On April 6, Centocor sent a Notice of Deposition for Ms.  
6 Crane, noticing her deposition for April 30, 2010. (*See* Exhibit B, Notice of  
7 Deposition of Sharon Crane.) Two days later, Genentech's counsel indicated that it  
8 would produce Ms. Crane for a deposition during the last week in April. *See*  
9 attached Exhibit C, Sernel letter to Verrecchio, dated April 8, 2010. Then, on April  
10 29, 2010, Genentech indicated that Ms. Crane would be available for a deposition on  
11 May 6, 2010. *See* Exhibit D, Shields' email to Verrecchio, dated April 29, 2010.

12 Defendants do not object to taking this deposition after the close of discovery.  
13 Accordingly, Centocor seeks leave to take the deposition of Sharon Crane after the  
14 discovery deadline.

15  
16  
17  
18  
19  
20  
21  
22  
23  
24 ///

25 ///

26 ///

27

28

1 **III. CONCLUSION**

2 For the foregoing reasons, it is requested that this Court grant Centocor leave  
3 to take Ms. Crane's deposition after the Discovery Cut-off date of April 30, 2010.

4  
5 DATED: April 30, 2010

Respectfully submitted,

6 AKIN GUMP STRAUSS HAUER & FELD LLP

7 By: /s/ Dianne B. Elderkin

8 Dianne B. Elderkin

9 and

10 CONNOLLY BOVE LODGE & HUTZ LLP

11 By: /s/ Keith D. Fraser

12 Keith D. Fraser

13 Attorneys for Plaintiff and Counter-Defendant  
14 Centocor Ortho Biotech, Inc. and Third-Party  
15 Defendants Global Pharmaceutical Supply  
16 Group, LLC, Centocor Biologics, LLC and  
17 JOM Pharmaceutical Services, Inc.  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## CERTIFICATE OF SERVICE

I, Dori Dellisanti, the undersigned, certify and declare that I am over the age of 18 years, employed in the County of Los Angeles, State of California, and not a party to the above-entitled cause. My business address is Connolly Bove Lodge & Hutz LLP, 333 South Grand Avenue, Suite 2300, Los Angeles, California 90071.

On April 30, 2010, I served the foregoing documents described as:

**(1) PLAINTIFF'S *EX PARTE* APPLICATION FOR LEAVE TO TAKE DEPOSITION OF WITNESS SHARON CRANE AFTER DISCOVERY CUT-OFF DATE**

on the following person(s) in this action by placing a true copy thereof enclosed in sealed envelope addressed as follows:

David I Gindler Joseph M Lipner Irell and Manella 1800 Avenue of the Stars Suite 900 Los Angeles, CA 90067-4276	Attorneys for Defendant and Counterclaimant City of Hope Medical Center  Tel: 310-277-1010 Fax: 310-203-7199 Email: <a href="mailto:jlipner@irell.com">jlipner@irell.com</a> ; <a href="mailto:dgindler@irell.com">dgindler@irell.com</a> <a href="mailto:Coh.centocor.team@irell.com">Coh.centocor.team@irell.com</a>
Mark A. Pals Marcus E Sernel Matthew Shiels Kirkland and Ellis LLP 300 North LaSalle Street Chicago, IL 60654	Attorneys for Defendant and Counterclaimant Genentech, Inc.  Tel: 312-861-2000 Fax: 312-861-2200 Email: <a href="mailto:mpals@kirkland.com">mpals@kirkland.com</a> <a href="mailto:msernel@kirkland.com">msernel@kirkland.com</a>
Daralyn J. Durie Ryan Kent Durie Tangri Lemley Roberts & Kent LLP 332 Pine Street Suite 200 San Francisco, CA 94104	Attorneys for Defendant and Counterclaimant Genentech, Inc.  Tel: 415-362-6666  Email: <a href="mailto:ddurie@durietangri.com">ddurie@durietangri.com</a> <a href="mailto:rkent@durietangri.com">rkent@durietangri.com</a>

**[ ] BY MAIL** I am readily familiar with the firm's practice regarding collection and processing of correspondence for mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

**[ ] BY PERSONAL SERVICE:** I caused such envelope to be delivered by hand to the addressee(s) as stated above.

**[ ] FEDERAL EXPRESS:** I am readily familiar with the office practice of Connolly Bove Lodge & Hutz LLP for collecting and processing correspondence for overnight delivery by Federal Express. Such practice is that when correspondence for overnight delivery by Federal Express is deposited with the

Connolly Bove Lodge & Hutz LLP personnel responsible for delivering correspondence to Federal Express, such correspondence is delivered to a Federal Express location or to an authorized courier or driver authorized by Federal Express to receive documents or deposited at a facility regularly maintained by Federal Express for receipt of documents on the same day in the ordinary course of business.

**[X] BY E-MAIL:** (1) I caused copies of the above documents to be emailed to the interested parties based on the email addresses indicated herein, and/or (2) based on General Order 08-02, the attached document(s) was sent to the person(s) at the e-mail address(es) indicated above through the Court's Electronic Filing System (ECF).

**[X] FEDERAL** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

I hereby declare under penalty of perjury that the foregoing is true and correct.  
Executed on April 30, 2010 at Los Angeles, California.

Dori Dellisanti

Name

/s/ Dori Dellisanti

Signature